

**LABOR ARBITRATION TRIBUNAL**

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**IN THE MATTER OF ARBITRATION BETWEEN**

<b>WILLIAMSPORT EDUCATION ASSOCIATION, PSEA/NEA</b>	:	
	:	
<b>and</b>	:	<b>Grievance: Suspension and Dismissal of Amie Palmer</b>
	:	
<b>WILLIAMSPORT AREA SCHOOL DISTRICT</b>	:	

**GRIEVANCE:** The grievance protests the suspension and discharge of Amie Palmer as being without just cause.

**HEARING:** February 3, 2016  
Williamsport, Pennsylvania

**ARBITRATOR:** John M. Skonier, Esq.

**APPEARANCES**

**FOR THE ASSOCIATION:**

William A. Hebe, Esq.

**FOR THE DISTRICT:**

Fred A. Holland, Esq.

## **Procedural History**

The undersigned was notified by letter of his selection by the Williamsport Area Education Association, PSEA/NEA (Association) and Williamsport Area School District (District or Employer) to hear and decide a matter then in dispute. Pursuant to due notice, a hearing was held on February 3, 2016, in Williamsport, Pennsylvania, at which times both parties were afforded a full opportunity to present testimony, examine and cross-examine witnesses, and introduce documentary evidence in support of their respective positions. Post-hearing legal briefs were submitted by the parties and the matter is now ready for final disposition.

## **Background Facts**

Ms. Amie Palmer (hereinafter the Grievant) was employed by the District for ten years. Initially, she worked in a part-time capacity as a cafeteria worker, a secretary, and an Instructional Support Aide. She began as a full-time employee four years prior to her discharge as a full-time custodian at the high school. Approximately 1½ years prior to her discharge, the Grievant transferred into the Williamsport Middle School as a full-time Custodian. Her work day at the middle school was from 10:30pm to 7:30am. On May 21, 2015, she came to work early, at 6:30pm, to work half of another Custodian's shift.

On the morning of May 22, 2015, then Seventh Grade Social Studies Teacher Thomas Bartholomew reported that his red Williamsport sweatshirt that he kept in his classroom was missing. A review of the school's security videos led to the allegation that the Grievant removed the sweatshirt from Mr. Bartholomew's classroom on the evening of May 21, 2015. It is also alleged that the video recordings show the Grievant taking the sweatshirt into the break room near the cafeteria and then leaving the break room, walking through the cafeteria and outside to the parking lot where she placed the red sweatshirt into her personal vehicle. (Exhibit J-2)

When questioned by the then Head Custodian, Mr. Willits, on May 22, 2015 and asked about the red sweatshirt, the Grievant said that she did not find anything in Mr. Bartholomew's classroom but that she had found a shirt on the floor of the science room which she placed on a gym bag in the room. She gave no indication that she removed a sweatshirt from Mr. Bartholomew's class room.

Subsequently, the Grievant acknowledged that she picked up a red sweatshirt in Mr. Bartholomew's classroom and placed it on a recycle bin behind the Custodial Break Room door. No sweatshirt was found in the break room on May 22, 2015. The sweatshirt

remained missing until it was found behind the door on the floor of the break room on June 3, 2015. (*Id.*)

The Grievant was suspended after a meeting with management on June 1, 2015 and subsequently dismissed on June 29, 2015 for allegedly stealing the red sweatshirt. On June 29, 2015, the Association filed a grievance over the suspension and dismissal of the Grievant.

The District denied the Association's grievance and the parties processed the grievance to the instant arbitration for final resolution.

### **Relevant Contractual Provisions**

#### ARTICLE 4

#### EMPLOYEE RIGHTS

- 4-1: JUST CAUSE - No employees shall be suspended, disciplined or dismissed without just cause.
  
- 4-2: REQUIRED MEETINGS AND HEARINGS - Whenever any employee is required by the Board to appear before the Superintendent, Board, or any committee, or member thereof, concerning any matter which could adversely affect the continuation of that employee in his office, position, or employment, or the salary, or any increments pertaining hereto, then he shall be given prior written notice of the reasons for such meeting or interview and shall be entitled to have a representative of the Association or legal counsel present to advise him and represent him during such meeting or interview. In the event that an employee is required, after reasonable notice, to attend a meeting or an interview with any of his supervisors, and the purpose of such meeting is to discipline the employee, such employee may, at his election, have present with him a representative of the Association, if he so desires.

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## Discussion and Opinion

The issue in this case is whether the District had just cause to suspend and terminate the Grievant from District employment. The Grievant was alleged to have removed a sweatshirt from then Seventh Grade Social Studies Teacher Thomas Bartholomew's classroom, to have failed to secure the sweatshirt, and to have then removed the sweatshirt to her personal vehicle.

The District maintains that its actions did not violate any of the Grievant's rights of due process. It argues that the June 1, 2015 meeting was a *Loudermill* hearing in which the Grievant was informed of the matter at issue and given the opportunity to tell her side of the story and correct any erroneous assumptions by management. The Grievant was directed to come to the meeting with her Association representative, she then heard the allegations against her and was given an opportunity to respond. The Supreme Court decision in *Cleveland Bd. of Educ. v. Loudermill*, 470 U.S. 532, 105 S.Ct. 1487 (1985), requires the minimal due process for a public employee suspected of wrongdoing. The employee is to be afforded a meeting to hear the allegations against them and an opportunity to tell their side of the story. In the June 1<sup>st</sup> meeting, the Grievant was advised of the allegations against her and was shown the surveillance video of her taking the red sweatshirt. She was given an opportunity to explain her side of the matter.

In response to the Association's argument that Article A-2 requires prior written notice for meeting in which the "employee is required by the Board to appear before the Superintendent, Board, or any committee or member thereof, concerning any matter which could adversely affect the continuation of that employee in his . . . position, or employment", the District notes that the June 1<sup>st</sup> meeting was not requested by the Board but by the Grievant's supervisor. The Grievant was to meet with the Director of Human Resources and other members of the administration.

The District argues that the second sentence of Article 4-2 is the applicable sentence to the instant matter. It reads in pertinent part as follows:

In the event that an employee is required, after reasonable notice, to attend a meeting or an interview with any of his supervisors, and the purpose of such meeting is to discipline the employee, such employee may, at his election, have present with him a representative of the Association, if he so desires.

The Grievant was given reasonable notice of the June 1<sup>st</sup> meeting and she was told she could have an Association Representative present. The Grievant had Association President

Emerick with her at the meeting. The District asserts that this was in accord with the parties' collective bargaining agreement.

The District notes that the Association has argued that the Grievant's favorable outcomes in her Unemployment Compensation hearing and before a Magisterial District Judge should serve to preclude the issues to be decided in the instant matter. The District asserts that the standards before the Unemployment referee are not those before the arbitrator who must make a determination within the context of the parties' contract. Similarly, the dismissal before a Magisterial District Judge of a criminal matter does not involve the same parties, and the standard of proof is different for criminal and civil matters. The Magisterial District Judge was not charged with determining if just cause has been met under the terms of the parties' contract.

The District notes that the Grievant admitted that she removed Mr. Bartholomew's red sweatshirt from his classroom and has given no explanation for why she did so. The District argues that the Grievant's testimony is simply not credible when weighed against the video record and the testimony of the District witnesses.

The District argues that the Grievant was afforded her due process rights in this matter and the credible evidence supports the allegations that the Grievant took Mr. Bartholomew's red sweatshirt. The District maintains that just cause was proven and asks that the grievance be denied.

The Association points out that on the evening of Friday, May 29, 2015, the Grievant received a note asking her to appear at a meeting on Monday, June 1<sup>st</sup>, and to have a union representative present. (Exhibit A-3) No explanation was given for the meeting. The Association argues that the Grievant was summoned to this meeting on June 1<sup>st</sup> without being informed as to the purpose of the meeting which is in violation of the collective bargaining agreement. The Association argues that Article A-2 is to provide "Miranda-like" protections so that employees are not ambushed at accusatory meetings. However, the District ignored this contractual provision and offered no reason as to why the Grievant was not given written notice of the reasons for such a meeting.

The Association asserts that all employees in the Williamsport Area Middle School know that their actions in the building are under constant surveillance by approximately 100 video cameras. The Association maintains that everyone knew that the Lost and Found Closet and that Head Custodian Willits' office were locked. The Association argues that the District failed to present any evidence that the sweatshirt being carried out of the building by the Grievant was Mr. Bartholomew's sweatshirt.

Furthermore, the Association points out that the Grievant was suspended on June 1, 2015 and no evidence was produced to show that the Grievant returned to the building or that anyone brought a red sweatshirt to the Custodial Break Room, where it was found by Ms. Kaiser on June 3, 2015.

The Association maintains that while cleaning Mr. Bartholomew's classroom on the evening of May 21, 2015, the Grievant discovered a red sweatshirt crumpled up on the floor. She picked up the sweatshirt and carried it as she went about her duties cleaning the various rooms. Upon entering the Custodial Break Room, she placed the red sweatshirt on recycling bin behind the entrance door. It notes that the Grievant's husband had called her to tell her that he would bring food for her dinner at about 10:00pm. Prior to his arrival, the Grievant realized that her cell phone battery was depleted and took her lunch bag, her cell phone and her sweatshirt to her truck, which was parked just outside the entrance to the building. The Association emphasizes that the Grievant was well aware of the surveillance cameras throughout the school property, as she parks her car under the view of cameras because previously these cameras helped catch vandals who took her prior vehicle and damaged it.

The Association asserts that at the direction of District administration, Head Custodian Willits called the Grievant on May 26, 2015 and asked her if she found a shirt while cleaning. The Grievant told Mr. Willits that she found clothing in the Science room near a duffle bag and that she moved the clothing closer to the duffle bag. The Association maintains that while Mr. Willits testified that the Grievant asked him the next day if anyone found the "hoodie" that he had asked her about, the Grievant denied making such a statement and maintains that she has never used the term "hoodie". The Association argues that Mr. Willits testimony should be considered suspect because he testified at the Unemployment Compensation Hearing that he had called the Grievant on May 22, 2015 when, in fact, the conversation was May 26, 2015.

The red sweatshirt was discovered behind the Custodial Break Room door by Ms. Kaiser on June 3, 2015. The Association points out that no testimony was produced as to any person seeing the Grievant or anyone enter the school on June 3<sup>rd</sup> and deposit the red sweatshirt in the Custodial Break Room.

While the District seeks to dismiss the Grievant for stealing the red sweatshirt, the Association notes that the red sweatshirt in question was never produced at the hearing. The Grievant, however, did bring her red sweatshirt to the hearing and it was identical in appearance to that seen on the video of the Grievant carrying her red sweatshirt to her truck.

The Association argues that is absurd to believe that the Grievant would be dumb enough to steal something in full view of a multitude of cameras. Despite this, the District denied the Grievant due process and summarily suspended and then dismissed her for an unproven allegation of theft. The Association asks that the grievance be sustained and that the Grievant be made whole.

The District offered the testimony of Mr. Thomas Bartholomew, Acting Dean of Students at Williamsport Area Middle School. In May of 2015, Mr. Bartholomew was a 7<sup>th</sup> Grade Social Studies teacher at the Williamsport Area Middle School. On Thursday, May 21, 2015, Mr. Bartholomew had worn his red Williamsport sweatshirt to school. He explained that he had folded up his shirt and left it in his classroom that day on a student desk that was adjacent to his teacher desk. The next day, Friday, the Grievant could not find his red sweatshirt. After questioning his colleagues and searching for the red sweatshirt, he was unable to find it. He then asked Assistant Building Principal Kevin Mumbauer if he could view the security video from the camera that was positioned in the hallway in front of Mr. Bartholomew's classroom. After reviewing the video recordings for that time period, Mr. Bartholomew concluded that the Grievant entered his classroom and exited his classroom with a red garment in her hand. Mr. Bartholomew drew the conclusion that the garment was his red sweatshirt. Mr. Bartholomew told Mr. Mumbauer of his conclusions and Mr. Mumbauer took responsibility for the matter at that time.

On cross-examination, Mr. Bartholomew acknowledged that he didn't know the Grievant and had no prior contact with her. Mr. Bartholomew acknowledged that there are a lot of red and white Williamsport sweatshirts in the school.

Mr. Mumbauer explained that the District has an extensive video surveillance system throughout the school (approximately 100 cameras). The video recordings provided views of the Grievant from the time she left Mr. Bartholomew's classroom, as she traversed the hallways, until she went to her vehicle in the parking lot at approximately 9:00pm. Mr. Mumbauer testified that Mr. Bartholomew contacted him on May 22, 2015. Mr. Bartholomew told him that a red sweatshirt that he kept in his classroom was now missing. Mr. Mumbauer looked in Mr. Bartholomew's classroom to see if he could find anything and he also looked in the Lost and Found closet but did not find the sweatshirt. After reviewing the security video tapes, Mr. Bartholomew told Mr. Mumbauer that he believed a custodian had removed his red sweatshirt from his classroom.

Mr. Mumbauer advised Mr. Bartholomew that he would review the video with Mr. Bartholomew on Tuesday, May 26, 2015 (Monday was Memorial Day). On that day, Mr. Mumbauer met with Mr. Bartholomew and the Building Principal, Mr. Fatherly,

to watch the video. Head Custodian Willits was called into the meeting and was subsequently directed to contact the Grievant and see if he could have Mr. Bartholomew's sweatshirt returned.

After considering all the information collected, Mr. Mumbauer met on June 1, 2015 with Principal Fatherly, Assistant Supervisor of Maintenance and Facilities Operations Al Bartlett, the Grievant, and her Association Representative, Local Association President Robert Emerick. During the meeting, the Grievant was asked if she had found a red sweatshirt and taken it out of Mr. Bartholomew's classroom. She explained that she found a red sweatshirt and placed it in the custodial break room. The Grievant also said that she owned a sweatshirt that was burgundy and grey (not specifically red) that she carried that day.

The District introduced a floor plan of the first floor of the Williamsport Area Middle School that indicated the location of Mr. Bartholomew's classroom, the Lost and Found Closet, Mr. Willits' office and the Custodial Break Room. (Exhibit E-1) Mr. Mumbauer testified that the surveillance videos revealed the Grievant leaving Mr. Bartholomew's classroom with the red sweatshirt, walking down the hallways, passing the Lost and Found Closet and going to the Custodial break room. Subsequently, the Grievant is seen walking out to her car in the parking lot with a red sweatshirt.

At the direction of Principal Fatherly, Director of Human Resources Ann Logue conducted an investigation of the incident regarding the Grievant's work on May 21-22, 2015. She explained that on May 21, 2015, the Grievant was working a half-shift from 6:30pm to 10:30pm. She was covering the time for a co-worker, Ms. Camp, who had taken half of her shift off for her birthday. At the completion of the half-shift on overtime, the Grievant began her regular 10:30pm to 7:00am shift.

Ms. Logue viewed the video surveillance recordings for the times in question. She provided testimony regarding the relevant portions of the video record: from 6:04pm, when the Grievant's vehicle entered the school parking lot, until the Grievant took a red sweatshirt out to her vehicle at approximately 9:00pm. During the June 1, 2015 meeting with the Grievant her representative and management personnel, Ms. Logue asked the Grievant, before showing her the video, if she had taken a red sweatshirt from Mr. Bartholomew's classroom on the night of May 21, 2015. Ms. Logue told the Grievant that when Mr. Willits asked her if she had taken a red sweatshirt from the classroom, she told Mr. Willits that she had not taken a red sweatshirt. When Ms. Logue asked the Grievant what her recollection of the incident was, the Grievant told her that Mr. Willits did not say anything to her about a red sweatshirt. She recalled Mr. Willits asking her if she had found

a t-shirt in the hallway and maintained that Mr. Willits said nothing to her about a red sweatshirt. At that time, the Grievant did not acknowledge that she had taken a red sweatshirt from Mr. Bartholomew's classroom. The Grievant was then shown the segment of the video that shows her entering Mr. Bartholomew's classroom and then exiting with a red garment under her arm. She was also shown the segment of her exiting the building and placing a red garment in her personal vehicle. After viewing these excerpts, the Grievant said that she did find a red sweatshirt in Mr. Bartholomew's class and placed it in the break room. The Grievant also said that she owned a burgundy and grey sweatshirt that she carries in and out of the school building.

Ms. Logue next spoke with the Grievant during a meeting on June 23<sup>rd</sup>. Also present were District Solicitor Holland, Assistant Principal Mumbauer, UniServ Representative Kurtz, Local Association President Emerick, and the Grievant. At that time, the Grievant said that she had found the red sweatshirt and had placed it in the break room. She explained that she had gotten thirsty and forgot that she had left the red sweatshirt in the break room.

Ms. Logue believed that she may have had a conversation with President Emerick prior to the June 1<sup>st</sup> meeting, as she often receives a call from Mr. Emerick prior to meetings to find out more information about the upcoming meeting. At the meeting, Ms. Logue told the Grievant that she would be suspended while the matter was under investigation. Ms. Logue recalled that she prepared the suspension letter after the meeting, but on the same day.

Mr. Willits testified that he learned of a missing red sweatshirt in the latter part of May 2015, when, on May 26, 2015, Assistant Principal Mumbauer called him to his office to discuss the red sweatshirt that was missing from Mr. Bartholomew's classroom. Mr. Mumbauer showed Mr. Willits a surveillance video and asked him if he could identify the custodian in the video. He identified the custodian as the Grievant. Mr. Willits was then directed to call the Grievant regarding the sweatshirt. Mr. Willits called the Grievant on the same day and asked her if she had found a red sweatshirt. He testified that she said, "No," but that she did tell him that she had found a red shirt in the science room and laid it on one of the gym bags in the science room. Mr. Willits testified that the Grievant said nothing to him about putting anything in the break room or in the Lost and Found Closet. He maintained that throughout the conversation with the Grievant, he focused on a missing sweatshirt and he never referred to it as anything other than a missing sweatshirt.

Mr. Willits identified the Lost and Found Closet on the building floor plan (Exhibit E-1). He confirmed that the door in the Lost and Found Closet is left open. He

explained that as Head Custodian, he expected the Custodians to place any lost and found item in either his office with a note, the main office with a note, or in the Lost and Found Closet. Mr. Willits explained that his office was adjacent to the Custodial Break Room and the door to his office was kept unlocked. If it were locked, the Custodians have keys to open the lock.

The next morning, May 27, 2015, Mr. Willits recalled that the Grievant asked him if the “red hoodie was found?” Mr. Willits explained that he has never referred to the sweatshirt as a hoodie.

The red sweatshirt was eventually found on the morning of June 3, 2015, around break time, 9:00am, by Custodian Kim Kaiser, inside the Custodian Break Room on the floor by the entrance door. Mr. Willits testified that he had been in the break room earlier that morning and had not seen the red sweatshirt. Mr. Willits testified that although he had been in the break room and had gone behind the entrance door numerous times to retrieve extension cords between May 21 and June 3, 2015, he had never seen a red sweatshirt in that location.

In response to the Association’s assertion that during the Grievant’s Unemployment Compensation Hearing, Mr. Willits testified that he spoke with the Grievant on May 22, 2015, and not May 26, 2015, Mr. Willits maintains that he misspoke as he did not recall the correct date while testifying at the Unemployment Compensation Hearing.

Custodian and co-worker of the Grievant Kim Kaiser testified that she was aware of a missing or stolen red sweatshirt. She said that on June 3, 2015, she found the red sweatshirt behind the entrance door to the Custodial Break Room. Ms. Kaiser testified that she did not work on May 21<sup>st</sup> or 22<sup>nd</sup>, but returned to work after Memorial Day, on Tuesday, May 26, 2015. Subsequently, on June 3, 2015, at approximately 8:30-9:00am, she found a red sweatshirt behind the Custodial Break Room door. She explained that the door to the break room did not open completely because of a recycling bin behind the door. She said that when she stepped behind the door to hang her sweatshirt on a wall hook, she almost tripped on the red sweatshirt that was lying on the floor. Ms. Kaiser testified that she knew of no Custodian in her building that owned a red sweatshirt. While she did see Custodians with red t-shirts, she explained that the red t-shirts were given to the staff by the District at the opening of the building. Ms. Kaiser testified that the red sweatshirt that she found was not there prior to her finding it. If it had been there, she was confident that she would have seen it.

When asked what she understood she was to do when coming across clothing while performing her custodial duties, Ms. Kaiser explained that if the clothing is in a classroom, it should not be touched. It should be left in the classroom because “the kids come in the next day and pick up their clothing. If it’s something laying on a desk, you just let it lay there, because someone will be back to pick it up.” She further explained that if a custodian comes upon something they believe is “lost”, they should take it to the Lost and Found Closet.

The Grievant testified that she has been employed for approximately 10 years at the District. During 6 of those 10 years, she worked as a part-time employee in various job positions: cafeteria worker, secretary for the career counselor and instructional support aide. Four years prior to her discharge, the Grievant was successful in bidding into a full-time Custodial position at the high school. A year and a half prior to her discharge, the Grievant transferred into the Williamsport Area Middle School because of alleged harassment by a co-worker.

The Grievant worked from 10:30pm to 7:00am each school day. The Grievant explained that her assigned areas for cleaning did not include Mr. Bartholomew’s classroom. However, whenever she was covering a half-shift for Custodian Mindy Camp, she would clean Mr. Bartholomew’s classroom. As May 21, 2015, was Ms. Camp’s birthday, she had taken the second half of her shift off. The Grievant was covering that portion of the shift on overtime. The Grievant worked Ms. Camp’s shift from 6:30pm to 10:30pm and then worked her shift from 10:30pm to 7:00am.

Upon reaching Mr. Bartholomew’s classroom, she found the door unlocked. She explained that Ms. Camp left the doors of various rooms she cleaned either unlocked or ajar, for the Grievant to have easy access. On the evening of May 21, 2015, the Grievant testified that she found a red sweatshirt in Mr. Bartholomew’s classroom. She explained that the red sweatshirt “was kind of crumpled on the floor, up towards the doorway.” The Grievant explained that she picked up the red sweatshirt, folded it and placed it out of the way, while she vacuumed the room. Upon leaving the classroom, she took the red sweatshirt with her up to the science room and continued her cleaning through other rooms until she got to the break room. The Grievant maintains that once in the Custodial break room, she placed the red sweatshirt on the recycle bin which was next to the break room door.

The Grievant testified that the break room doorway does not fully open because there are two or three chairs behind the door, extension cords are kept behind the

door, and a coat rack is behind the door. In addition, a recycle bin is behind the door and a counter top with a microwave is in this location in the room.

When asked why she did not take the red sweatshirt to the main office, Mr. Willits' office or the Lost and Found Closet, the Grievant explained that when she finds an item she takes it to the break room for Head Custodian Willits to deal with the item. She said that she was told to do this by Mr. Willits.

The Grievant testified that she purposely parks her vehicle in the portion of the parking lot that is surveilled by video cameras. She had a prior vehicle stolen from the school parking lot and eventually found after it had been burned. She maintains that because she had parked that vehicle in the portion of the parking lot that was under video surveillance, the police were able to identify the students who took her vehicle and vandalized it.

The Grievant testified that she knew that she was on camera as she worked and walked through the building with the red sweatshirt and when she went out into the parking lot to her vehicle. She testified that at 9:00pm, her husband called to tell her that he would be bringing her evening meal. The Grievant noticed that her phone battery was depleted and went to retrieve her charger. As she was unable to find it in the building, she presumed it was in her vehicle and went to the parking lot to retrieve the charger. As she was going out, she decided to take some of her belongings to place in her truck. She took her lunch bag and her hooded red sweatshirt. She ate her meal in the parking lot. She left her red sweatshirt and other belongings in her truck and went back into the school building and completed her work shift.

The Grievant testified that when he called her on May 26, 2015, Mr. Willits asked her if she had come upon a shirt in the hallway while working Ms. Camp's shift. The Grievant maintains that Mr. Willits never asked her about a red sweatshirt. The Grievant next heard about a red sweatshirt on Friday night, when she saw an envelope with a letter that indicated that she was being called to a meeting on June 1<sup>st</sup> at the Middle School by the Assistant Supervisor of Maintenance and Facilities Operations, Al Barlett. The Grievant attended the meeting, which was also attended by Principal Fatherly, Assistant Principal Mumbauer, Human Resources Director Logue, Al Barlett and Rob Emerick.

At the meeting, it was explained that video surveillance revealed the Grievant taking a red sweatshirt from a classroom and out of the school to her vehicle. The Grievant said that around 7:30pm, she took items to the Custodial Break Room. The Grievant was told that she was being suspended without pay pending an investigation.

The Grievant attended a Unemployment Compensation Hearing and was ultimately awarded compensation. In addition, a criminal charge was filed against the Grievant, but the matter was dismissed by the District Magistrate at the preliminary hearing.

The Grievant maintains that Mr. Willits never spoke to her about a sweatshirt or a red sweatshirt on May 26<sup>th</sup>. The next day, the Grievant maintains that she asked Mr. Willits, "Did anyone find the shirt that was missing?" and he responded, "Not to my knowledge." Although Mr. Willits testified that the Grievant asked if anyone had found the "hoodie", the Grievant asserts that she doesn't use the word "hoodie". She was confident that she had used the word "shirt".

The Grievant acknowledged that she never reported to anyone that she had found the red sweatshirt in Mr. Bartholomew's classroom. Although the Grievant had a key to the Lost and Found Closet, she acknowledged that she walked past it without depositing the red sweatshirt she had found in Mr. Bartholomew's classroom.

Although she worked May 22, 2015, she does not recall whether she saw the red sweatshirt in the Custodial Break Room on that day. She acknowledged that she never told Mr. Willits that she had placed the red sweatshirt in the break room. The Grievant worked her shift on Tuesday, May 26, 2015, however, she doesn't recall if she saw the red sweatshirt in the break room at that time. She did not talk to anyone about the red sweatshirt. She forgot about it.

At the meeting of June 1<sup>st</sup>, the Grievant offered to go to the break room and the Lost and Found Closet and look for the red sweatshirt. She was told that Mr. Willits had looked in the break room and a teacher had looked in the Lost and Found Closet, so it was unnecessary.

The record reveals several inconsistencies with the Grievant's statements throughout this matter. When Mr. Willits called the Grievant, at the direction of Mr. Mumbauer, he asked her about a "sweatshirt" not a "shirt". Mr. Willits had just been shown a video during a meeting with the Principal and Mr. Bartholomew, the owner of the red sweatshirt. He was specifically asked to contact the Grievant to see he could have Mr. Bartholomew's red sweatshirt returned. To this end, he called the Grievant the same day that he saw the video of the Grievant leaving Mr. Bartholomew's classroom with what appeared to be a red sweatshirt. He clearly knew the missing item was a red sweatshirt. It is not credible that he would then ask the Grievant about a shirt in a hallway. The Grievant's explanation that she was never asked about a sweatshirt is not credible.

The fact that the Grievant never told Mr. Willits that she took a red sweatshirt from Mr. Bartholomew's classroom on May 21, 2015 is especially telling. Clearly, she knew that the administration wanted to know what happened to the sweatshirt, yet she never mentioned the fact that she took it to Mr. Willits. As Ms. Logue, the Human Resources Director testified, it was only during the June 1<sup>st</sup> meeting, *after* the Grievant was shown the video of her leaving Mr. Bartholomew's classroom with a red sweatshirt under her arm, that she acknowledged that she did take a red sweatshirt from Mr. Bartholomew's classroom.

The act of taking a piece of clothing out of a classroom was contrary to co-worker Kim Kaiser's testimony that a custodian is never to take a piece of clothing out of a classroom, as the owner will return to the classroom, generally the next day, and retrieve the item. Ms. Kaiser explained that only when such an item is found in the hallway should the Custodian pick up the item and place it in the Lost and Found Closet.

The video reveals that the Grievant took the sweatshirt out of Mr. Bartholomew's classroom, walked the red sweatshirt down the hallway, past the Lost and Found Closet, yet did not open the door to the closet and deposit the item. Instead, according to her testimony, she took the red sweatshirt to the Custodial Break Room and left it atop a recycling bin and forgot about it. Even this statement is contradicted by the fact that she is observed on the video leaving the school building at approximately 9:00pm to deposit the red sweatshirt in her truck and then return to the middle school building to continue her work. Although the Grievant claimed that she owned a red sweatshirt and that the red sweatshirt seen on the video as she exited the building was hers, her statements during her June 1, 2015 meeting with Administration was that she owned a burgundy and grey sweatshirt. The video recording shows her clearly carrying a red sweatshirt. The fact that she produced a red sweatshirt at the instant hearing is not convincing. Again, co-worker Kaiser testified that she knew of no Custodian in her building (the middle school) who owned a red sweatshirt.

The Association has argued that the Grievant should have received a written notice of the charges before the June 1<sup>st</sup> meeting with administration. A review of Article, A-2 of the parties' collective bargaining agreement reveals a written notice of the reasons for a meeting is required when the employee is "required by the Board to appear before the Superintendent, Board, or any committee, or member thereof . . ." The June 1<sup>st</sup> meeting was in the nature of a *Loudermill* meeting before supervision. As such, the relevant provision is the second sentence of Article A-2 which reads, in pertinent part, as follows:

**Williamsport Area EA and  
Williamsport Area School District  
(Discharge of Amie Palmer)**

In the event that an employee is required, after reasonable notice, to attend a meeting or an interview with any of his supervisors, and the purpose of such meeting is to discipline the employee, such employee may, at his election, have present with him a representative of the Association, if he so desires.

On Friday, May 29, 2015, the Grievant was given notice to attend a meeting on Monday, the June 1, 2015. She was told she could bring an Association representative. During the meeting, the Grievant was questioned with regard to the red sweatshirt that was missing from Mr. Bartholomew's classroom. The Grievant was given an opportunity to explain her actions. After the meeting, on the same day, Ms. Logue sent a notice of suspension to the Grievant. These actions on the part of the District are consistent with the parties' collective bargaining agreement.

The District has demonstrated just cause for the disciplinary action taken against the Grievant. In view of this, the District's action will not be disturbed.

**Award**

Based on the record as a whole and for the reasons discussed, the grievance is denied.

  
John M. Skonier  
Arbitrator

July 1, 2016